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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Forty-eighth session

SUMMARY RECORD OF THE SECOND PART (PUBLIC)* OF THE 1129th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 26 February 1996, at 3.55 p.m.

Chairman: Mr. BANTON

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* The summary record of the first part (closed) of the meeting appears as document CERD/C/SR.1129.

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The public part of the meeting was called to order at 3.55 p.m.

ORGANIZATION OF WORK

1. The CHAIRMAN took it that the Committee would agree with the Bureau's recommendation that it accede to a request from the Government of Cambodia to defer consideration of its latest periodic report, on the understanding that the report would be submitted by 1 May 1996 for consideration at the forty-ninth session. That recommendation was prompted by Cambodia's special circumstances and by information received from the Centre for Human Rights that the report was nearing completion.

2. It was so agreed.

3. Drawing attention to a note verbale from the Permanent Mission of Nigeria and subsequent correspondence concerning an issue raised during the presentation of the periodic report of Nigeria at the August 1995 session, the CHAIRMAN asked the Committee to consider, in time for the following meeting, whether it wished the matter to be discussed in public or in private and what response, if any, was required. The Committee might also wish to consider whether, in the absence of Mr. Diaconu, the designated country rapporteur for Colombia, it would proceed with consideration of Colombia's periodic report as scheduled, and whether any member might be prepared at short notice to stand in for Mr. Diaconu.

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING AND URGENT PROCEDURES (agenda item 5)

4. The CHAIRMAN, drawing attention to the revised proposed programme of work and the list of States in respect of which action was required under the early warning and prevention procedure, put forward a number of suggestions as a guide to the Committee's discussion on what action to take. As Israel and the former Yugoslav Republic of Macedonia had failed to respond to the Committee's communications, he suggested that they be kept on the list and sent a reminder stating that their reports were overdue. Both Algeria and Morocco had submitted periodic reports which had been considered at the previous session; they could therefore be removed from the list and required in future to follow the regular periodic reporting procedure. The same might apply to the Russian Federation, should the Committee so decide after consideration of its periodic report at the current session. Action to be taken in respect of Croatia and Bosnia and Herzegovina would emerge from later discussion. The Committee should consider whether the situation regarding the Federal Republic of Yugoslavia was similar to that of Bosnia and Herzegovina; if it was not, periodic reporting might be sufficient for future monitoring. The Committee should also decide what action to take concerning Rwanda and Burundi. The Special Rapporteur for Burundi of the Commission on Human Rights had reportedly recommended that the jurisdiction of the International War Crimes Tribunal for Rwanda should be extended to Burundi. Although the Centre for Human Rights had no formal confirmation of that report, he hoped that such confirmation would be forthcoming, in which case the Committee might wish to endorse the recommendation before the end of the session and bring it to the attention of other United Nations bodies. On the subject of Papua New Guinea,

he understood that further information would become available within the next few months and therefore suggested that the topic be deferred to the forty-ninth session.

5. Mr. WOLFRUM said that he had no strong views about action to be taken in respect of Israel. He endorsed the Chairman's suggestions concerning Algeria, Mexico, the Russian Federation and the former Yugoslav Republic of Macedonia. Action in respect of Croatia, Bosnia and Herzegovina, the Federal Republic of Yugoslavia, Rwanda and Burundi should be discussed at the current meeting. He agreed to deferring discussion on Papua New Guinea, but keeping it on the list.

6. Mr. ABOUL-NASR emphasized the difficulty of reconciling the Committee's heavy workload and time constraints with the many serious and massive cases of discrimination and human rights violations in various parts of the world. The Committee was inevitably selective in its approach and unable to do justice to certain situations. One example of an omission was Liberia. He was not in favour of constantly reopening the debate on chronic situations. In the absence of new developments, the Committee might confine its action to expressions of concern and reminders that no reports had been received, while focusing its attention at each session on one or two very serious situations.

7. Mr. YUTZIS proposed the addition of Guatemala to the list, since that country had failed to submit the additional information it had promised.

8. Mr. GARVALOV supported the Chairman's suggestions.

9. Mr. FERRERO COSTA said that, while he understood Mr. Aboul-Nasr's concern about the Committee's limitations, it was following an agreed procedure with regard to situations which in its view required urgent action. That did not preclude any subsequent improvements in the procedure. He supported the Chairman's suggestions and agreed that Guatemala and Liberia should be added to the list. The question of whether or not to keep Israel on the list raised the issue of the criteria for inclusion, which was a reflection of the Committee's concern about a particular situation but did not require in depth discussion at every session. Much would depend on the amount of data available. The case of Croatia, for example, was amply documented. He recommended that attention be focused on the States of the former Yugoslavia.

10. Mr. van BOVEN recalled that the Committee had adopted its new approach to preventive and urgent action in response to the Secretary-General's appeal for greater involvement by the human rights treaty bodies in prevention and early warning. Although the Committee was under no illusion about the extent of its influence, those procedures were now an important part of its work. The Committee should approach its task seriously. When a new or overdue report had been promised or repeatedly requested but had failed to materialize, the States parties concerned should be sent a reminder and included or kept on the list - as in the case of Guatemala and Israel. Regarding the States of the former Yugoslavia, the Dayton Accords, by recognizing the results of ethnic cleansing, raised the broader issue of the conflict between political opportunism and the principles of international law. More specifically, they were at variance with the basic principles of the International Convention on the Elimination of All Forms of Racial Discrimination and were consequently a

matter of legitimate concern to the Committee. The situation in Burundi was deeply alarming and potentially catastrophic. The Secretary-General faced serious difficulties within the Security Council and would not be helped by advice from the Committee, but there was a strong case for giving him support and encouragement. The International War Crimes Tribunal for Rwanda was plagued by infrastructure problems, and any recommendation that its jurisdiction be extended to Burundi would be an empty gesture.

11. Mr. de GOUTTES said that the oral reports by the representative of the Secretary-General at the previous session on the situation in Burundi and Rwanda and on the Secretariat's efforts in that regard might usefully be updated at the current session. An account of developments in the implementation of the Dayton Accords would also be helpful.

12. Mr. VALENCIA RODRIGUEZ endorsed Mr. de Gouttes' useful suggestion. The Committee needed updated information on developments concerning both the States of the former Yugoslavia and Burundi. There was a general awareness of the threat of disaster in Burundi and the need for urgent measures, yet no action had thus far been taken. The reluctance to approve another peace-keeping mission was perhaps explained by the financial crisis at the United Nations, but some members of the Security Council thought that a peace-keeping force financed by voluntary contributions could be sent to Burundi. It might also be possible to send troops from neighbouring countries, such as Zaire, under United Nations auspices, to monitor events in the frontier region of Burundi.

13. The CHAIRMAN said that a copy of the Dayton Accords would be made available to members of the Committee.

14. Mr. WOLFRUM agreed to the addition of Liberia to the list, on the grounds that the situation there involved massive human rights violations with an ethnic component and that it received little or no international media coverage.

15. Mr. ABOUL-NASR said that Liberia was but one example of countries where violations had taken place. The Committee should require cooperation from all the countries on its list, particularly those it had not dealt with before.

16. The CHAIRMAN took it that the Committee wished to add Liberia to the list. He asked Mr. Wolfrum and Mr. Ahmadu to prepare documentation on the matter.

17. Mr. GARVALOV, referring to the problems of the former Yugoslavia, said that the Dayton Accords were history. The Committee should concentrate on subsequent developments.

18. Mr. ABOUL-NASR pointed out that, although almost every article of the Accords was in violation of the Convention, it would surely be unhelpful to tell Bosnia to disregard them on those grounds.

19. Mr. WOLFRUM believed strongly that the Committee could not remain silent in the face of provisions of the Accords that ran counter to the Convention.

20. Mr. de GOUTTES said that the Committee needed updated information on developments following the application of the Dayton Accords.

21. The CHAIRMAN said that a staff member of the Centre for Human Rights could provide the Committee with information regarding both the Dayton Accords and the situation in Burundi and Rwanda. Members had intimated that they could not productively discuss those two countries until they had up-to-date information and that reminders should be sent to those States that had not complied with the Committee's requests for the submission of reports, including Israel, the former Yugoslav Republic of Macedonia and Guatemala, calling for replies by 1 May 1996. Algeria and Mexico, too, should be asked to submit periodic reports. The case of Papua New Guinea could be deferred to the forty-ninth session.

22. It was so decided.

ACTION BY THE GENERAL ASSEMBLY AT ITS FIFTIETH SESSION

(b) EFFECTIVE IMPLEMENTATION OF INTERNATIONAL INSTRUMENTS ON HUMAN RIGHTS, INCLUDING REPORTING OBLIGATIONS UNDER INTERNATIONAL INSTRUMENTS ON HUMAN RIGHTS (agenda item 8) (A/50/505; CERD/48/Misc.2)

23. The CHAIRMAN invited Mr. Garvalov to introduce the report of the sixth meeting of persons chairing the human rights treaty bodies (A/50/505).

24. Mr. GARVALOV said that the chairpersons had reviewed recent developments relating to the work of the treaty bodies and had made a number of suggestions and recommendations. Those included the need to continue stressing that the promotion and protection of human rights should be considered a priority objective for the United Nations. Treaty bodies should exchange information in order to detect and respond appropriately to situations of massive violations of human rights. There should also be greater participation by United Nations specialized agencies in the work of the treaty bodies. Treaty bodies should continue to deal as efficiently as possible with overdue reports and severe backlogs and should contribute fully to the achievement of the Plan of Action for the United Nations Decade for Human Rights Education. They should also discuss as widely as possible the human rights of women and should request States parties to provide specific information on the status of women. Gender perspectives should be fully integrated into their working methods.

25. The chairpersons had deplored the recent increase in the number and breadth of reservations made by States parties upon ratification of certain treaties and had emphasized that that practice undermined the letter and spirit of human rights treaties. They had welcomed the support provided to treaty bodies by the Centre for Human Rights and had stressed the need for adequate staff and resources for the Centre. They had also had an important discussion with the United Nations High Commissioner for Human Rights, who had spoken of his support for universal ratification of the Convention on the Rights of the Child and for the coordination of all human rights activities within the United Nations system. He had stressed the importance of treaty

bodies using the early warning and urgent procedures and had assured the chairpersons that their annual reports were systematically analysed at the Centre for Human Rights and at United Nations headquarters.

26. The CERD Chairman had given an account of CERD activities during the March and August sessions in 1995. At the meeting he had suggested in his personal capacity the possibility of convening an international conference on treaty bodies. Reaction had been mixed and the suggestion had not been included in the report.

27. Mr. O'FLAHERTY (Secretary of the Committee) replying to a question from Mr. ABOUL-NASR, referred the Committee to document CERD/48/Misc.2 for information on the term "gender perspectives". The chairpersons had asked for that term to be used, on the basis of the Beijing Declaration and Programme of Action, which contained observations on the treaty bodies generally and on specific issues connected with them.

28. Mr. van BOVEN said he had initially questioned how far the Committee should be involved in gender-related issues. It had, however, discussed ethnic issues that particularly affected women, including the problem of domestic servants in foreign countries and cases where men were allowed to immigrate but their wives were not allowed to join them. Women were also victimized by rape - in Bosnia, for example. The Committee was so involved in considering country reports that it risked missing the wider picture. It would be helpful if - perhaps in cooperation with the Sub-Commission on Prevention of Discrimination and Protection of Minorities - a report could be prepared on the issue of gender sensitivity.

29. The CHAIRMAN said that the issue went further than the mere consideration of females as victims; it called into question many assumptions about the nature of masculinity. It was men who did the fighting in wars and there might well be less fighting if the balance of power shifted to women.

OTHER MATTERS

30. Mr. van BOVEN drew the Committee's attention to a letter from the Permanent Representative of Italy to the Chairman of the Committee against Torture, and a subsequent press release, which claimed that CERD had "ruled out the existence in Italy of cases of racial discrimination". He denied that that was the case; the Committee was never as categorical as that and indeed it had expressed concern over the situation in Italy. Two points should be made in connection with the letter: first, since the treaty bodies inevitably sometimes dealt with the same issues, they should make every effort to avoid inconsistencies. Secondly, the Committee should express concern that a State party was misrepresenting the work of the Committee and using it in an argument with another treaty body. The point could be made when Italy submitted its next report.

31. Mr. WOLFRUM agreed with Mr. van Boven's comments about the overlapping jurisdiction of human rights treaty bodies, a matter which should be raised at the next meeting of persons chairing the treaty bodies. With regard to the letter, the Committee should stress during consideration of Italy's next

periodic report that its concluding observations did not state that there were no cases of racial discrimination in Italy. It could not condone the contents of the letter.

32. Mr. de GOUTTES said that the question of States putting too positive a construction on the Committee's concluding observations could be addressed if, as the Committee frequently recommended, States disseminated the Committee's findings on countries or the Committee's report to the United Nations General Assembly, thus leaving no room for ambiguity. With regard to the overlapping of Committee reports, the Commission on Human Rights had urged treaty bodies and their chairpersons to consider the utility of single comprehensive reports and of replacing periodic reports with specifically tailored or thematic reports and to inform the Commission of their views on the proposal. He asked whether any progress had been made in that area.

33. Mr. FERRERO COSTA said he had doubts about the wisdom of not raising the issue of the letter until Italy's next report was considered. The Committee should do more. However, before deciding what course of action to take, the Committee needed to know through which channels it had received the letter sent by the Permanent Representative of Italy to the Chairman of the Committee against Torture (CAT).

34. Mrs. KLEIN-BIDMON (Representative of the Secretary-General) said that since the letter had been available to the Committee in the Secretariat's files and consideration of the Italian report had been covered in a CERD summary record, it had been deemed appropriate to provide the Committee with a copy. Before any action was taken, however, it should be ascertained whether the Chairman of CAT had acted on the letter.

35. Mr. FERRERO COSTA suggested that the Committee should send a letter to the Chairman of CAT enclosing its concluding observations on the report of Italy, with a copy to the Permanent Representative of Italy.

36. Mr. CHIGOVERA said that paragraph 73 of document CAT/C/SR.240 implied that consideration of the issues raised in Italy's letter had not been concluded. Therefore, it should be brought to the attention of the Chairman of CAT that the information supplied by the Permanent Representative relating to the work of another treaty monitoring body, namely CERD, was incorrect. The same comments should be passed on to the Permanent Representative himself.

37. Mr. RECHETOV observed that the Committee was lingering over Italy's letter at a time when the gravity of the situation in countries such as Afghanistan genuinely deserved consideration. The Committee's concluding observations should be sent to the Chairman of CAT.

38. Mr. SHERIFIS agreed that the Committee was overreacting to the letter. The Committee's concluding observations had pinpointed its principal areas of concern. However, the current debate concerned what could be put down to an error in the wording of the letter. It was enough to note that the Committee disagreed with that wording and to draw that fact to Italy's attention in due course. The Committee was also perfectly entitled to send a copy of its

concluding observations to other treaty bodies if it so wished. However, it should take care to respond to the letter through the proper channels, namely either the Secretariat or the Chairman of CAT.

39. Mr. van BOVEN, clarifying his position, said he was not seeking to place the matter at hand in the same category as grave situations demanding preventive action and early warning. It was an issue concerning the relations between human rights treaty bodies and an example of the work of one body being misrepresented to another. The letter should be considered as it stood since its wording undoubtedly expressed the author's intention.

40. Mr. de GOUTTES, supported by Mr. FERRERO COSTA, said that the Committee should go no further than to write to the Chairman of CAT informing him that the observations in the letter from the Permanent Representative of Italy did not reflect the Committee's practice of never discounting the existence of racial discrimination in any country.

41. Mr. YUTZIS said that the Committee could not be seen to approve a letter that misrepresented its conclusions. It should be made clear that the discrepancy had been brought to the Committee's attention.

42. The CHAIRMAN took it that the Committee wished a letter to be drafted for consideration by members and subsequent dispatch to the Chairman of CAT.

43. It was so agreed.

44. Mr. O'FLAHERTY (Secretary of the Committee) said that members of the Centre for Human Rights would brief the Committee, the following day, on the situation in Rwanda, Burundi and Bosnia and Herzegovina. The briefing would be held in camera and there would be no record of the proceedings.

45. Mr. FERRERO COSTA saw no reason for the briefing to be held behind closed doors. He understood the need to protect members of the Secretariat but felt that the issues involved should be discussed in public.

46. The CHAIRMAN said that members of the Committee were free to discuss the issues freely and in public but that the Secretariat was not. The Committee could give its opinions after the briefing, in a public meeting.

47. Mr. WOLFRUM said that, in his view, discussions on the situation in the States concerned should take place in public. He was not convinced that such briefings by the Secretariat warranted a closed procedure.

48. The CHAIRMAN said that the Committee might reconsider the policy at a later date.

The meeting rose at 5.55 p.m.